

DRAFT

***Interagency Guidance : Transportation Funding
for Federal Agency Coordination***

I. Purpose

The purpose of this guidance is to provide a common understanding among the U. S. Department of Transportation, State Transportation Departments and local transit operators, and Federal resource agencies regarding options for using Federal transportation funding under Title 23 to fund Federal resource agency coordination for Federal-aid transportation projects. It was developed cooperatively by the Federal Highway Administration, Federal Transit Administration, Environmental Protection Agency, Fish and Wildlife Service, Army Corps of Engineers, and the Advisory Council on Historic Preservation, to provide USDOT, Federal resource agencies, State DOT's, and local transit authorities with the tools needed to develop mutually beneficial agreements to meet the environmental streamlining goals of TEA-21.

II. Background

Section 1309 of the Transportation Equity Act for the 21st Century (TEA-21) calls for a coordinated environmental review process to expedite Federal highway and transit projects. Accomplishing this requires better and earlier coordination among Federal, state, and local agencies. To avoid delays and costly duplication of effort in reviewing and approving transportation projects agencies must:

- Establish an integrated review and permitting process that identifies key decision points and potential conflicts as early as possible;
- Integrate the NEPA process and other environmental review and approvals as early as possible in the scoping and transportation planning processes;
- Encourage full and early participation by all Federal, state, and local agencies that must review a transportation construction project or issue a permit, license, approval, or opinion relating to the project; and
- Establish a dispute resolution mechanism to address unresolved issues.

The USDOT and the Federal resource agencies urge applicants for Title 23 funding (State DOT's and transit operators) to actively pursue agreements with them to improve interagency coordination, more effectively address environmental concerns, and reduce costly delays in the environmental review process. In addition to the need for predictable, expedient time frames within which resource agencies conduct their roles in the process, there is also a need for increased, meaningful activity from the Federal resource agencies. The advantage of more intensive Federal resource agency involvement is that agencies' input is more useful in project decisionmaking the earlier it comes in the process. The timeliness and quality of the projects is

improved, and environmental issues can more easily be resolved.

As a result of TEA-21, Federal transportation funding has increased by 40% without a corresponding increase in Federal resource agency staff. This substantial increase in projects highlights the need for measures to improve the way project development and environmental review processes are executed. The expectation of more intensive involvement by Federal resource agencies risks burdening their already-strained budgets and personnel resources, and could result in costly delays in complying with Federal environmental statutes and executive orders. The DOT has been asking Federal resource agencies for more involvement in spite of these limitations. For streamlining to be effective, resource agencies will need additional funds and continuing involvement. The additional funds under TEA-21 will supplement, not replace, existing federal budgets for work on transportation projects.

Federal resource agencies' efforts to improve streamlining have been underway for some time. The FHWA, EPA, FWS, ACOE, and NOAA developed the guidance *Applying the Section 404 Permit Process to Federal-Aid Highway Projects* (the "Red Book") in 1988 to identify methods to improve coordination before and during the processing of Section 404 permits. It emphasized increased effort in scoping, training, public involvement, and other programmatic and project-specific approaches, and provided the basis for numerous interagency agreements for streamlining environmental processes. In a 1994 report the Government Accounting Office (GAO) examined the NEPA/ 404 process and government efforts to streamlining reviews. Although the report recognized the time and cost savings that could be realized through an integrated process, it noted that "resource constraints could limit success of the integrated process", and pointed out that the integrated processes require agencies to spend more resources than under traditional processes. The GAO Report also recommended that time cost and delay be tracked to establish a baseline of how long a "typical" project would take to go through the process. The projects conducted using additional resource agency staff under these agreements could provide useful information to demonstrate time and cost savings of the streamlined environmental process.

In 1997, the FHWA Office of Program Quality Coordination prepared the report *Interagency Coordination with Federal Agencies during the FHWA Project Planning and NEPA Processes*. The report focused on FHWA's role as the lead Federal agency, and identified activities that have been most effective in overcoming obstacles to achieving interagency coordination, obtaining the involvement and commitment from other Federal agencies, and providing leadership in project decisionmaking. Emphasis was placed on facilitating scoping, resolving conflict, and assuring quality project decisions.

Funding additional Federal resource agency staff can result in joint benefit that earlier efforts such as the Red Book and Interagency Coordination report identified, but which have yet to be fully achieved. Additional Federal resource agency staff can assist the State DOT's and applicants in reaching better and faster transportation solutions earlier and at less cost, as well as enabling better environmental decisions in the project plans.

III. Legislative Authorities

A. Transportation Equity Act for the 21st Century (TEA-21)

Section 1309(e) of the Act states:

(e) Assistance to Affected Federal Agencies —

(1) The Secretary may approve a request by a State or recipient to provide funds for a highway . . . or for a mass transit project made available . . . to the State for the project . . . to affected Federal agencies to provide the resources necessary to meet any time limits established under this section.

(2) Such requests . . . shall be approved only for the additional amounts . . . necessary to meet the time limits for environmental review; and if such time limits are less than the customary time necessary for such review.

B. The Fish and Wildlife Act of 1956 (16 U.S.C. 742f(a)(4)), and the Fish and Wildlife Coordination Act (16 U.S.C. 661 et. seq.)

The Fish and Wildlife Act of 1956 authorizes FWS to use another agency's funds to assist its efforts for the “. . . development, advancement, conservation and protection of the fisheries resources [and] of wildlife resources through research, acquisition of refuge lands, development of existing facilities, and other means.” (Sec. 7(a)(4) and (5)). The law suggests that the “Secretary [of the Interior] may request and secure the advice or assistance of any department or agency of the Government in carrying out the provisions of this Act, and any such department or agency which furnishes advice or assistance to the Secretary may expend its own funds for such purposes, with or without reimbursement from the Secretary as may be agreed upon between the Secretary and the department or agency.” (Sec. 6(c))

The Fish and Wildlife Coordination Act authorizes the Secretary of the Interior “to accept donations of land and contributions of funds in furtherance of the purposes of this Act.” (Sec. 1) Further, it states:

“In the case of construction by a Federal agency, that agency is authorized to transfer to the USFWS, out of appropriations or other funds made available for investigations, engineering, or construction, such funds as may be necessary to conduct all or part of the investigations required to carry out the purposes of this section.

C. Intergovernmental Personnel Act of 1970 (5 CFR 334)

The Intergovernmental Personnel Act of 1970 authorized the temporary assignment of employees between Federal agencies and State, local, and Indian tribal governments, institutions of higher learning and other eligible organizations. It provides for additional flexibility for augmenting the

staffing available to Federal resource agencies to carry out their missions.

Assignments may be made up to 2 years (and may be extended), and conditions are laid out regarding total length of mobility assignments, continuation of service agreements, certifications, and necessary agreements between the agencies.

Options/ Mechanisms

Examples of the use of the IPA:

- A staff member from a Federal resource agency is detailed to a State DOT to help scope issues and conduct environmental analysis for its projects. Although the staff member remains a Federal employee, the state may reimburse the agency for all or part of the employee's salary and expenses. This increased attention and early involvement by the Federal resource agency should result in less time to resolve issues and smoother review. The Federal resource agency could then hire someone for the duration to "fill in", so there would not be a loss of the agency's ability to conduct its business.
- A staff member from a State resource agency or from academia is obtained as additional Federal resource agency staff to assist in scoping or review of State DOT projects

Examples of the use of the Fish and Wildlife Act of 1956/ Fish & Wildlife Coordination Act:

- Under the terms of an interagency agreement, the FWS can hire additional staff whose salary is paid by the State DOT. In turn, the State DOT's expenses are reimbursed using apportioned Federal-aid project funds. The additional FWS staff can work exclusively on State DOT actions: project scoping, environmental impacts and mitigation analysis, documentation development and review, etc. The most efficient time to successfully resolve environmental issues is at the planning (pre-scoping) and scoping stages.
- Using the Federal resource agency's contractor or consultant to perform environmental studies needed by the Federal resource agency to identify resources (e.g., resources inventory or database), determine impacts, and to develop mitigation measures. Contract scoping could be performed by the Federal resource agency, and funding could be DOT's responsibility.
- Outside experts (from academia, for example) could be contracted through the Federal resource agencies to provide peer review of DOT practices such as project scoping, environmental analysis, or mitigation measures.

IV Interagency Agreements

TEA-21 section 1309(e) states that federal agency reimbursement money should be available to help meet review "time limits" if such time limits are less than the "customary time for such review". Cooperative interagency agreements already in place, such as those for Section 404/ NEPA, serve the environmental streamlining goals of TEA-21 and should be considered to meet the requirements of section 1309(e). This section provides guidance on other types of agreements states and Federal resource agencies may enter into for purposes of project

streamlining and reimbursement.

The U. S. DOT Field Offices should encourage and proactively pursue State Transportation Department's or transit agencies' use of the funds under this provision. However, the decision to participate remains with the State DOT's or transit agencies, who are encouraged to take a flexible approach to the concept of funding Federal resource agency positions.

Concept of Good Investment

As a normal practice, the FHWA and FTA encourage appropriate Federal resource agencies to participate in the project development process, become cooperating agencies, perform routine analyses, conduct studies (if appropriate), and/or prepare a portion of the environmental documentation. However, Federal resource agencies cannot substantially increase their involvement in planning, scoping, and alternatives development without additional resources. This up-front investment, if well-planned and executed in a timely manner, will result in lower overall project costs and reduced time periods, producing a win-win situation.

State DOT's, transit operators, and Federal resource agencies should address the question of whether to fund a whole position to work exclusively on state priority projects or to fund one or more positions part-time on a project-specific basis. Funding levels that do not result in increased staffing levels for the Federal resource agencies are generally not going to achieve the environmental streamlining goal. Funding agreements shall be in compliance with Federal contracting and finance laws and procedures. From an FHWA and FTA perspective, interagency funding transfers can occur either in anticipation of work to be done, or as reimbursement for work already completed.

Agreements

An agreement between the State and a Federal agency should:

- Establish background and objectives. The agreement should address why the parties are engaging in the agreement; what benefits the respective agencies hope to realize; how the agreement is expected to improve transportation projects, environmental quality, and timeliness of decisions.
- Reference existing cooperative interagency agreements, and existing and ongoing Federal, State, and local plans which complement the workings and relationship between the agencies involved (e.g., NEPA/ 404 MOU).
- Define roles and responsibilities of the parties to the agreement – what will each do to facilitate a smooth working relationship? How will they handle routine coordination and resolve disputes?
- Indicate the scope of the agreement, including information on the desired number of

positions and duration.

- Describe the roles of any new positions and what expectations are anticipated (e.g., travel, areas of involvement, expected products (if any)).
- Identify priority areas, if any, on which the State DOT or transit agency would like the Federal resource agency positions to focus their efforts (e.g., individual projects, types of projects, certain geographical bounds, etc.) Also, if expertise is needed in a particular discipline, or if there are any special requirements of the Federal resource agency staff, those should be clearly articulated in the agreement.
- Emphasize that signatory agencies should focus on resolving issues in the planning (pre-scoping) and scoping stages, where environmental issues can most readily and efficiently be resolved.
- Provide for a joint system of monitoring the expenditure of funds and accounting. In general, how the funds are to be used and include any restrictions on their use.
- Provide for an agreed-upon process for progress reports and a mutual evaluation of effectiveness, with a pre-set evaluation period, to allow for modification of the agreement, if necessary.
- Be flexible — have contingencies to accommodate changing needs during the term of the agreement.

In addition to the funding efforts described in this guidance, FHWA and FTA field offices should continue to work with SHA's and Federal resource agencies to explore ways to collectively "work smarter" through informal cooperative and programmatic approaches. Also, the use of other media techniques (e.g., videoconferencing) can improve the efficiency, effectiveness, and economy of interagency coordination and is encouraged.

Sample agreements and related documents are included in the appendix.

Appendix
Sample Agreements
and
Related Documents

1. Sample Interagency Agreement
2. Performance Review Standards for Interagency Agreement
3. Customer Service Survey
4. Performance Review Report

AGREEMENT NO. 440088
FEDERAL I.D. NO. 99-9999999

INTERPERSONNEL AGREEMENT

between

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY ("EPA")

and

COMMONWEALTH OF PENNSYLVANIA, Department of Transportation
("DEPARTMENT")

Article I. Background and Objectives

WHEREAS, Section 2002(a)(7) of the (Pennsylvania) Administrative Code of 1929, as amended, 71 P.S. 5512(a)(7), requires the DEPARTMENT to cooperate with appropriate Federal agencies in the coordination of plans and policies in the development of transportation facilities; and,

WHEREAS, pursuant to the National Environmental Policy Act of 1969, the Clean Water Act of 1977 (as amended), the Environmental Quality Improvement Act of 1970 (as amended), the Clean Air Act (as amended) and Executive Order 11514, Protection and Enhancement of Environmental Quality (March 5, 1970, as amended by Executive Order 11991, May 24, 1977), the EPA is responsible for reviewing Federal and Commonwealth agency actions which may

affect environmental resources, such as air, water, lands and wildlife and for assuring that these agency actions include appropriate consideration of the public interest; and,

WHEREAS, the EPA currently reviews DEPARTMENT transportation projects in regard to environmental resources and considerations of public interest, to assure that the design of these projects is sensitive to protection of these environmental and public interests; and,

WHEREAS, the DEPARTMENT is substantially increasing the number of transportation projects which EPA is to review and desires EPA to increase its level of involvement during the project development process, such that the final EPA reviews do not constitute an unnecessary delay in DEPARTMENT project implementation; and,

WHEREAS, the EPA has indicated that it is unable at present to provide the DEPARTMENT with priority review of DEPARTMENT projects and increase the EPA's involvement on the DEPARTMENT's transportation project development process; and,

WHEREAS, both parties have determined that it would be mutually beneficial to increase the EPA's staff to enable the EPA to provide the DEPARTMENT with priority project review, so that transportation projects can be designed and implemented promptly, to meet the ever-changing transportation needs of the Commonwealth, in a manner that is sensitive in regard to environmental resources and public interests; and,

WHEREAS, the DEPARTMENT is willing to reimburse the EPA for the increased staff required to provide priority project review; and,

WHEREAS, the United States Department of Transportation, Federal Highway Administration would be able to participate on a project-by-project basis in the reimbursement of funds expended by the DEPARTMENT for the increase in EPA' s staff if (1) EPA has the statutory authority to charge on a reimbursable basis and (2) the service provided is beyond normal work performed on Federal-aid highway and transportation projects; and,

WHEREAS, the EPA has determined that (1) it has statutory authority to charge on a reimbursable basis and (2) that the service provided is beyond the normal work it performs on Federal-aid highway and transportation projects; and

WHEREAS, the parties hereto desire to enter into this Interpersonnel Agreement to facilitate the cooperation of the parties in the review of transportation projects and provide for the personnel and funds to obtain this goal.

NOW, THEREFORE, for and in consideration of the foregoing premises and of the mutual promises set forth below, the parties hereto agree, with the intention of being legally bound, to the following:

Article II. Statement of Work

- A. The EPA shall supplement its existing staff, which currently processes DEPARTMENT projects on a routine basis, with a qualified project review specialists and other personnel as detailed in Attachment A attached hereto and made part hereof. The EPA shall use the funds provided under this Agreement to defray the costs of salaries and associated benefits and to reimburse reasonable travel expenses in accordance with the Federal Travel Regulations, 41 C.F.R. Chapter 301, which is hereby incorporated by reference as if physically attached hereto.
- B. The EPA staff shall work on DEPARTMENT projects and provide expedited document review and project coordination as identified in Attachment B, attached hereto and made part hereof.
- C. The EPA, furthermore, shall review and respond to DEPARTMENT submissions within twenty (20) working days upon receipt of complete project documentation. Major documents, such as Draft Environmental Impact Statements, will require a minimum review period of thirty (30) days. The DEPARTMENT and the EPA shall mutually agree upon the date when the review period commences. Verbal concurrence between the DEPARTMENT and the EPA staff of the need for additional information shall "stop the clock" on the running of the review period. This verbal concurrence shall be confirmed by written documentation on a monthly basis. Once the additional information has been submitted, the DEPARTMENT and the EPA shall mutually agree upon the date when the clock begins to run again.

- D. The employee identified in Attachments A and C shall keep daily time records identifying the number of hours spent working on DEPARTMENT projects and the work tasks defined in Attachment B. These records shall account for one hundred percent (100%) of the time worked by each employee detailed in Attachment A, including time spent on non-Department work, if any. In addition, the EPA shall keep accurate and separate accounting records of all receipts and disbursements of all funds received pursuant to this Agreement and produce such record for examination as required by the DEPARTMENT, the Federal Highway Administration, the Federal Transit Administration and the Federal Aviation Administration and shall permit extracts and copies to be made by the DEPARTMENT, the Federal Highway Administration, the Federal Transit Administration, the Federal Aviation Administration and the Department Comptroller's Office or their duly authorized representatives. The EPA shall keep records substantiating hours and costs billed pursuant to this Agreement for a period of at least four (4) years after the final billing is submitted. These records shall be subject to audit by the DEPARTMENT, as appropriate.
- E. The EPA shall provide the DEPARTMENT with a monthly status report, on or in accordance with a form to be provided by the Department, within five (5) working days after the end of each month, which shall detail monthly project review activity pursuant to this Agreement.

- F. The parties to this Agreement act in an independent capacity in the performance their respective functions under this Agreement; and neither party shall be construed as the officer, agent or employee of the other.
- G. The DEPARTMENT, in cooperation with EPA, will prepare performance standards/measures and conduct periodic performance reviews. EPA will work with the DEPARTMENT to improve/correct identified deficiencies.
- H. In no way shall it be construed or implied that either the DEPARTMENT or the EPA is by this Agreement intending to abrogate its obligation and duty to comply with the regulations promulgated under the National Environmental Policy Act of 1969, the Clean Water Act of 1977 (as amended), the Clean Air Act (as amended) and Executive Order 11514, Protection and Enhancement of Environmental Quality (March 5, 1970, as amended by Executive Order 11991, May 24, 1977).

Article III. Financial Administration

- A. The DEPARTMENT shall, subject to the billing provisions of Paragraph III.B below, reimburse the EPA a total sum not to exceed Fifty Thousand Dollars (\$50,000.00) the first year, ending on June 30, 1999, with the amount to be amended annually on July 1 of each

succeeding year, for priority processing of DEPARTMENT projects by the EPA.

- B. The DEPARTMENT shall reimburse the EPA on a quarterly basis for actual costs of salaries, benefits and travel incurred by the EPA in accordance with Paragraph II.A above. The EPA shall submit quarterly invoices covering actual costs incurred for the previous quarter. Travel vouchers will be submitted within thirty (30) days of completion of travel.
- C. To assure the EPA's compliance with the Federal Intergovernmental Personnel Act of 1970, the parties, by their appropriate officials, shall execute an Assignment Agreement, certifying the accuracy of the job description, fiscal arrangements, employee benefits, rights and obligations, in the form of Attachment C attached hereto and made part hereof.

Article IV. Period of Performance

- A. The term of this Agreement shall run for a period of six (6) years from the effective date of approval by both parties, deemed to be the date of the last required signature on the signature page, unless terminated sooner in accordance with Paragraph IV.B below.
- B. Either party may terminate this Agreement upon sixty (60) days' written notice to the other, addressed to the Project officer listed in Article V, provided that the party requesting termination can show cause that there has been a failure on the part of the other to fulfill

substantially its responsibilities under this Agreement, and only after providing notice and sufficient opportunity for remedy.

Article V. Project Officers

A. U. S. Environmental Protection Agency:

Thomas Slenkamp, Acting Deputy Director
Office of Environmental Programs, USEPA Region III
1650 Arch Street
Philadelphia, Pennsylvania 19103
Tel: (215) 814-2750

B. Department of Transportation:

Wayne W. Kober, Director
Bureau of Environmental Quality
Pennsylvania Department of Transportation
555 Walnut Street, 7th Floor
Harrisburg, Pennsylvania 17101-1900
Tel: (717) 787-1024

Article VI. Required Clauses

- A. During the performance of this Agreement, the parties agree to abide by the terms of Executive Order 11246 on nondiscrimination and will not discriminate against any person because of race, color, religion, sex or national origin. The participants will take affirmative action to insure that applicants are employed without regard to their race, color, religion, sex or national origin.

- B. No member of or delegate to Congress, or resident Commissioner, shall be admitted to any share or part of this Agreement or any benefit that may arise therefrom; but this provision shall not be construed to extend to this Agreement if made with a corporation for its general benefit.
- C. The parties agree that in any contracts to be developed and awarded pursuant to this Agreement all design, plans, specifications, estimates of costs, construction, utility relocation work, right-of-way acquisition procedures, acceptance of the work and procedures in general shall, at all times, conform to the applicable Federal and State laws, rules, regulations, orders and approvals, including, specifically, procedures and requirements relating to labor standards, equal employment opportunity, nondiscrimination, anti-solicitation, compliance with the Americans with Disabilities Act, information, auditing and reporting provisions.

Article VII. Modification

Any changes, amendments, corrections or additions to this Agreement, including the annual amendment in the total amount of reimbursement provided for in Paragraph III.A above, shall be in writing; shall be executed and approved by the same officials (or their designees) of the parties

who execute and approve this original Agreement and in accordance with applicable law; and shall become effective upon complete approval by both parties.

Article VIII. Catalogue of Domestic Assistance

Interpersonnel Agreement No. 440088 is split 80%, expenditure amount of \$40,000.00 for Federal funds and 20%, expenditure amount of \$10,000.00, for State funds. The related Federal assistance program name and number is State Transportation Program (STP); 33D. The State assistance program name and number is Highway and Safety Improvements; Appropriation 185.

Article IX. Signatures

IN WITNESS WHEREOF, the parties have executed this Agreement the date first above written.

ATTEST

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY

Title: _____ DATE
DATE

BY _____
Title: _____

If a Corporation, the President or Vice-president must sign and the Secretary, Treasurer, Assistant Secretary or Assistant Treasurer must attest; if a sole proprietorship, only the owner must sign; if a partnership, only one partner need sign; if a limited partnership, only the general partner must sign.

DO NOT WRITE BELOW THIS LINE--FOR COMMONWEALTH USE ONLY

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION

DATE

BY _____
DEPUTY SECRETARY OF
TRANSPORTATION

APPROVED AS TO LEGALITY
AND FORM

BY _____
Chief Counsel _____ DATE
DATE

PRELIMINARILY APPROVED

BY _____
Assistant Counsel

BY _____
Deputy Attorney _____ DATE
General

RECORDED NO. _____
CERTIFIED FUNDS AVAILABLE UNDER
ACTIVITY PROGRAM _____
SYMBOL _____
AMOUNT _____

BY _____
Deputy General _____ DATE
Counsel
DATE

BY _____
Signature

Comptroller

Title

APPROVED FOR OFFICE OF ADMINISTRATION

By _____
Signature Date

Title

Attachment A

The following proposed staff shall meet the professional standards outlined below:

One (1) specialist with experience and/or education in Resource Planning or Environmental Planning. Working knowledge of state and federal laws, such as but not limited to, the National Environmental Policy Act, Section 404 of the Clean Water Act of 1977, the Clean Air Act, the Joint Federal Manual for the Identification and Delineation of Wetlands and Wetland functional assessment methodologies (WET II) and USDOT Act of 1966 (CFR 23, Part 771), is essential.

In addition, an ability to travel overnight is mandatory. Employee must be capable of performing necessary field operations. The employee should be able to operate a motor vehicle, be able to access field work sites, and be able to travel as required to Department field offices, consultant offices and other locations throughout the state. Federal White Collar Pay Schedule, General Schedule 12.

Attachment B

The EPA staff shall accomplish the following tasks for PennDOT, as appropriate, in order to expedite, implement and coordinate the Transportation Project Development Process and meet the DEPARTMENT'S needs for compliance with applicable Commonwealth and Federal statutes:

- Review transportation plans and programs
- Participate in Agency scoping
- Participate in Needs Analysis review and comment
- Provide Preliminary Environmental Analyses guidance and review
- Field Review Wetland Identifications and Delineations
- Field Review of Potential Mitigation Sites
- Provide Preliminary and Detailed Alternatives Analyses guidance and review
- Provide Alternatives Analysis Report review and comment
- Represent EPA at meetings as appropriate
- Attend public hearings/meetings as required/appropriate
- Participate in the development / implementation of written PennDOT and EPA guidance
- Ensure EPA review coordination on separate reports for the same project
- Attend ACM and other inter-/intra-agency meetings as appropriate
- Coordinate and provide training on environmental resource issues
- Organize meetings or conference calls to clarify problems at the request of EPA or PennDOT
- Participate on Department task forces and field views with authority to make routine decisions
- Conduct document reviews, and draft agency responses which may include but not be limited to:

- * Wetlands Identification and Delineation Reports
- * Wetland Functional Assessment Reports
- * Wildlife Resources and Related Technical Basis Reports
- * Habitat Evaluation Procedure Reports
- * Section 106 Documents
- * Project Needs Documents
- * Preliminary Alternatives Reports
- * Environmental Impact Statements

- * Environmental Impact Statement Comment Resolution
- * Environmental Assessments
- * Categorical Exclusion Evaluations
- * FONSI Requests
- * Environmental Evaluation Reports
- * Mitigation Reports and Plans
- * Section 404 Permit Applications
- * Chapter 105 Permit Applications
- * Policies and Procedures

Perform other related tasks as defined by PennDOT and agreed to by EPA

PERFORMANCE REVIEW STANDARDS INTERAGENCY FUNDING AGREEMENTS

Note: Any standard not applicable to an individual agency will not be rated.

I. DOCUMENT REVIEW

A. Substance of Comments. Comments provided on documents should provide as much technical assistance, expertise and guidance as possible and should be in keeping with the highest of environmental standards. Comments should be justifiable and consistent with issues. Grammatical changes should not be a reason to delay a document.

B. Timeliness. Review of documents should be as timely as possible. A maximum turn around time of 20 working days upon receipt of complete documentation will be considered acceptable (or longer if specified in the document cover letter or in the Agency's Agreement, Attachment B). It is recognized that there will be cases of multiple or overlapping requirements; in those situations agencies will determine priority of review in coordination with all concerned parties. Extensions to review time will be granted on a case by case basis. For major public documents such as DEIS/FEIS, review and comment must be completed prior to deadline date.

Standards:

A. Rating of substance of comments will be based upon review of a random selection of projects and comments provided by customer service surveys.

B. Rating of timeliness will be as follows: Outstanding 95% to 100% on time; Commendable 85%-94%; Satisfactory 84%-75%; and, Needs Improvement 75% or less.

II. TECHNICAL ASSISTANCE

A. Meetings. Reviewing agencies should attend and actively participate and/or facilitate in meetings requiring their input or expertise (examples include, but are not limited to: ACM, ALCAB, Public Hearings, and coordination meetings). In the event that a meeting must be missed, the agency should coordinate with the host to determine if assistance can be provided by other means.

B. Field Views. Maximum use and initiation of field views is encouraged. Agencies should make every effort to participate in field views with the permit applicant. Additional field views or site visits should be scheduled as required for their own agency's needs. Coordination of field views outside of ACM presentations will be a joint responsibility of the District Office and the agency.

C. Planning, Design & Construction Avoidance, Minimization and Mitigation Plans/Recommendations. Agencies should actively make avoidance, minimization and mitigation suggestions and recommendations early on and throughout the Planning, Design and Construction phases of transportation project development. Agencies should identify potential problems and provide specific recommendations for resolution. The goal is to work towards and create a cooperative win-win solution that best accommodates all customers.

Standards:

A&B. Participation in Meetings and Field Views will be considered Outstanding if 90% of meetings/field views invited to are attended and minutes accurately reflect active participation. It is Commendable if the above standard is met 80% of the time and Satisfactory if met 75% of the time. Anything less for attendance and participation is considered Needs Improvement.

C. This objective will be considered Outstanding if agency consistently (80% of the time or better) identifies and provides viable recommendations for problem resolution in a timely manner. It is considered Commendable if agency usually (50-79% of the time) identifies and provides viable recommendations for problem resolution. It is considered Needs Improvement if the agency rarely (less than 50% of the time) identifies and/or provides recommendations to problems.

III. POLICY DEVELOPMENT AND PARTICIPATION

A. Involvement in Department Task Forces. As the BEQ develops statewide environmental policy and procedures, various agencies will be called upon to participate in different task forces. While serving on a task force it is expected that the majority of meetings will be attended, that the agency representative will actively provide comments and input to the task force objective(s), and any items requested from the agency will be disseminated. Any requested work, review and/or comments relating to a task force project should be provided in a timely manner.

B. Review of Strike Off Letters and Handbooks. As the Department develops policy documents (Strike Off Letters or Handbooks), the various agencies will be asked to comment via Clearance Transmittal or memorandum. Review comments should be provided by specified dates or sooner. Any extension of time should be coordinated with the originator prior to the due date.

C. Individual Agency Guidance Dissemination. In order that the Department is informed of any guidance that may affect Department procedures or policy, it is imperative that the BEQ be advised of any new or revised policy or guidance within the various agencies. As the Department is not always in the distribution loop, agency representatives are responsible for ensuring the Department is provided copies of their agency's policy or procedures as required and acquired.

Standards:

A. Task force participation will be measured by feedback from the task force chair. (All task forces will be chaired by a member of the BEQ staff). Consideration will be given to the number of task forces an agency is asked to participate in and the influence or constructive input that agency can reasonably be expected to contribute.

B. Review of Strike Off Letters and Handbooks. This objective will be measured based on substance of comments and timeliness to clearance transmittals or memorandums.

C. Guidance Dissemination. This objective will be considered Outstanding if guidance is provided to the BEQ within two weeks of receipt and follow up discussions held with appropriate staff; Commendable if guidance is provided within three weeks; Satisfactory if provided within one month; and Needs Improvement if BEQ must request copies or obtain guidance from another source.

IV. OUTREACH AND EDUCATION

A. Training Development and Presentation. Any agency may develop and present an informal overview of their agency or a field view demonstration to the other ACM agencies and Department staff. Presentations may be at a regularly scheduled/special ACM or field meeting. Dates for presentations should be coordinated with Policy Group, PennDOT BEQ, at (717)772-3087.

B. Assistance with BEQ Training. As the BEQ develops and presents training on its various handbooks and policies, input from the agencies may be requested. Agencies may also be invited to participate in either the development and/or the presentation of training.

C. District Visits. Agencies are encouraged to visit the District Offices to facilitate project development and foster partnerships. Visits will be coordinated between the agency, District Office, the Department, and/or agency as appropriate.

Standards:

A. This objective will be rated Outstanding if the ACM presentation is informative, well done and is accompanied with good handouts and visual aids; Commendable if presentation is informative and is accompanied with handouts and visual aids; Satisfactory if a presentation is made; and Needs Improvement if agency fails to make a presentation. Time constraints will be considered in this rating.

B. This objective will be rated based on task force leader feedback and comments provided by audience/students on course critique (agency specific ratings or comments only).

C. As visits to Districts are encouraged and not specifically a rated objective, it can not be accurately rated or measured. The true measure of this will be a positive growth in working relationships, trust, and cooperation.

V. CONTINUOUS QUALITY IMPROVEMENT (CQI) INITIATIVES

It is expected that each agency participate in the Department's CQI program. Agencies should actively seek, develop and implement ways to continually improve, re-engineer, increase efficiencies, and streamline processes. These can be through individual initiatives or cooperative efforts. Type and magnitude of CQI initiative will vary.

The Department recognizes that agencies often initiate actions or expand their duties beyond what is described in their agreement's Attachment B. This section is designed to give agencies the opportunity to capture work or initiatives performed outside of the Department's day-to-day view. Each agency is requested to provide a brief description of these efforts.

Standard: These standards will vary based on complexity, longevity, and difficulty of the initiative. Progress will be based upon input at quarterly process reviews and/or predetermined and agreed upon standards for each initiative.

**CUSTOMER SERVICE SURVEY
PERFORMANCE REVIEW
INTERAGENCY FUNDING AGREEMENTS**

THIS RATING IS FOR THE PERIOD JULY 1, 1998 - JUNE 30, 1999 ONLY !!

(Raters: Please complete **one form** for **each** of the agencies listed)

AGENCY RATED:(*Highlight or check the agency rated on this form.*)

PA Historical & Museum Commission
PA Fish & Boat Commission
PA Department of Agriculture
US Fish & Wildlife Service
US Environmental Protection Agency
PA Game Commission
PA Department of Environmental Protection

Agency Staff Names (Individuals at this agency with whom the District/Organization normally coordinates on projects):

District/Organization completing this rating: _____

Rater's name and title:_____

In order to improve areas that are deemed unsatisfactory and capitalize on those deemed outstanding, please provide comments and examples for any area rated below "2" or above "9".

**1. How have the agency's comments affected the quality of PennDOT documents?
(Cite examples for ratings below 2 or above 9)**

1	2	3	4	5	6	7	8	9	10
very little	moderate		significant significantly			very	greatly		

Comments: _____

2. Did the agency raise significant procedural or environmental issues? (Cite examples for ratings below 2 or above 9)

1	2	3	4	5	6	7	8	9	10
---	---	---	---	---	---	---	---	---	----

never seldom occasionally often always

Comments: _____

3. Did the agency develop or suggest compromises and/or solutions to the issues raised by either the agency or other parties? (Cite examples for ratings below 2 or above 9)

1 2 3 4 5 6 7 8 9 10
never seldom occasionally often always

Comments: _____

4. Did the agency help facilitate solutions to project issues? (Cite examples for ratings below 2 or above 9)

1 2 3 4 5 6 7 8 9 10
never seldom occasionally often always

Comments: _____

5. Is the agency represented at appropriate public meetings or hearings (when informed or invited)? (Cite examples for ratings below 2 or above 9)

1 2 3 4 5 6 7 8 9 10
never seldom occasionally often always

Comments: _____

6. Are the agency comments consistent and in keeping with the agencies responsibilities and charge? (Cite examples for ratings below 2 or above 9)

1 2 3 4 5 6 7 8 9 10
varies occasionally seldom usually always
often varies varies consistent consistent

Comments: _____

7. If requested, the technical assistance provided by the agency is beneficial? (Why or why not?)

1	2	3	4	5	6	7	8	9	10
not	moderately		generally			very		greatly	
beneficial									

Comments: _____

8. Is the agency responsive to my requests?

1	2	3	4	5	6	7	8	9	10
never	seldom		occasionally			often		always	

Comments: _____

9. The agency attends appropriate project field views and meetings when required/invited?

1	2	3	4	5	6	7	8	9	10
never	seldom		occasionally			often		always	

Comments: _____

10. The agency maintains good communications with my organization? (Why or why not?)

1	2	3	4	5	6	7	8	9	10
never	seldom		occasionally			often		always	

Comments: _____

11. The agency attempts to resolve problems through open dialog and at the lowest level?

1	2	3	4	5	6	7	8	9	10
never	seldom	occasionally	often	always					

Comments: _____

12. The agency's response to phone calls is:

1	2	3	4	5	6	7	8	9	10
poor	fair	average	very good	outstanding					

Comments: _____

13. The agency's response to written inquiries is:

1	2	3	4	5	6	7	8	9	10
poor	fair	average	very good	outstanding					

Comments: _____

14. What do you see as the agency's strengths?

15. What do you see as the agency's weakness?

16. What suggestions would you make for improvement?

17. Additional comments.

Thank you for taking the time to complete this customer survey!

PERFORMANCE REVIEW REPORT

PENNSYLVANIA FISH AND BOAT COMMISSION

INTERAGENCY FUNDING AGREEMENT

MOU # 440008

PENNSYLVANIA DEPARTMENT OF TRANSPORTATION

JULY 1997 - JUNE 1998

Performance Review Report
Pennsylvania Fish and Boat Commission
Interagency Funding Agreement
MOU # 440008

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Appendix B - Performance Standards

INTRODUCTION

Since June 11, 1993, the Pennsylvania Department of Transportation (PennDOT) and the Pennsylvania Fish and Boat Commission (PFBC) have been parties to a mutually beneficial Interagency Agreement. Agreement #440008 provides funding to the PFBC to increase the PFBC staff by the equivalent of one (1) person so that the PFBC can provide PennDOT with expedited reviews of priority projects. The purpose of this agreement is to provide early and frequent involvement by dedicated PFBC staff into PennDOT's 10-Step Transportation Project Development Process to ensure that projects are developed in a manner sensitive to aquatic species and their habitats. This agreement is one of seven (7) Interagency Agreements for similar purposes. This agreement was re-negotiated for a new five-year period beginning June 24, 1998 and executed as Agreement #440085.

Total funding for Agreement #440008E during State Fiscal Year (SFY) 97/98 was \$54,636. The Federal Highway Administration (FHWA) provided reimbursement on an 80/20 match of the costs. The Pennsylvania Turnpike Commission shared half of the remaining 20% of costs with PennDOT. Specific details are further outlined in the agreement in regard to invoicing, travel expenses, expedited review timeframes, time records, professional standards of staff, work tasks, and other related items.

An outline of Performance Standards and a Customer Service Survey have been mutually developed by the Bureau of Environmental Quality (BEQ) staff and the seven concerned agencies to monitor and evaluate performance of the agencies in fulfilling the intent and purpose of the Interagency Agreements. The Performance Standards (Appendix B) are designed to be similar to those used throughout PennDOT to measure levels of performance. The Customer Service Survey (Appendix A) was the primary tool used to gather information from our customers to complete this year's Performance Review. Additional input was gathered from PennDOT's project files, document review logs and chairpersons of various Department task forces and the monthly Agency Coordination Meetings (ACM).

DISCUSSION

The Customer Service Survey was distributed to the eleven (11) PennDOT Engineering Districts, the Bureau of Design (BOD) Project Development Engineers, and the Bureau of Environmental Quality Pollution Prevention Division Chief and all Group Leaders. The Customer Service Survey solicited responses to assess the substance and timeliness of project document reviews, level of agency participation in appropriate meetings and field views, significance and pertinence of issues raised, development and facilitation of solutions/compromises to project issues, responsiveness to customer's requests for technical assistance, participation in policy development, as well as outreach and education efforts. Respondents had the option of providing narrative comments to all questions, and were required to comment on the highest and lowest ratings.

Customer Service Survey inputs were refined and the numerical responses averaged based on the total numbers of respondents for each question. Nineteen (19) respondents provided input to this Performance Review. The agency's average score for each question was then graphically displayed against the range of averaged scores for all seven agencies for that question. At the end of the Customer Service Survey Summary each agency's overall score is displayed against the total range of all agencies' overall scores to give a *relative* customer service index. The intent is not to compare one agency against the others, but to portray the relative level of customer service provided and attempt to measure performance in relation to agreed standards. Comments provided by the respondents helped to highlight outstanding performances, as well as those areas in need of attention during the next year. Recommendations were provided by the BEQ staff.

RESULTS (The summary of results of the Customer Service Survey is at Appendix A.)

I. Document Review:

Document review comments provided by the PFBC staff continued to be of high quality and even improved somewhat over last year. Overall, these well-thought out comments have had a very significant effect on the quality and completeness of the Department's environmental documents. Most importantly, they have had a positive effect on project designs. Review comments have often raised significant procedural or environmental issues associated with projects. When these issues were raised, the PFBC staff provided reasonable approaches to deal with the conflicts. In one specific instance, PFBC comments led to a massive re-engineering of the project. Agency comments are always consistent and are in keeping with the PFBC's responsibilities and charge.

The PFBC staff often actively seeks compromises and/or recommends solutions to project related environmental issues. They frequently suggest design changes and adaptations for fish habitats. They are cooperative and open to suggestions and discussions. Staff members often work to facilitate solutions to project issues by serving in a mediator role with other ACM agencies to reach a consensus and minimize environmental harm. This cooperative, positive approach to problem solving is greatly appreciated by the Department. The agency is often represented at appropriate public meetings or hearings, and always attends when asked by the Districts. An exception has been noted here, caused by the staff shortage in the ever-growing T&E Species area.

Timeliness of document reviews, in general, continued to be Outstanding, with responses within the twenty (20) day review period more than 95% of the time. However, the lack of appropriate staff to handle the growing numbers of T&E Species issues has resulted in significant delays in at least three (3) Districts.

II. Technical Assistance:

The PFBC continued throughout the year to provide technical assistance which was mutually beneficial to both the PFBC and PennDOT, as well as the environment.

PFBC staff nearly always attended appropriate project meetings and field views when invited. Agency staff offered good mitigation assistance and frequently provided specialized technical assistance such as stream surveys and culvert studies, thus saving the Department both time and money. When asked for assistance, the agency provided us with guidance which was easily understood and when followed, eliminated problems. The PFBC staff were seen as always attempting to resolve problems through open dialog at the lowest level. They were not afraid to make decisions or take responsibility for their decisions. Most of the time problems were worked out at field views or meetings, with reasoning made clear and understandable. There was good decision making at the staff level when needed.

Agency staff were open and responsive to the Engineering District's requests, and almost always responded in a timely and customer-service related manner. They took our questions and requests seriously and researched them when necessary.

The agency's responses to phone calls and written communications were always prompt and were rated as very good. Overall, the agency maintained very good communications with the Department. A noted exception to the above has been a lack of responsiveness from the T&E Species Coordinator.

III. Policy Development and Participation:

PennDOT and PFBC coordinated through existing task forces and advisory councils on issues related to wetlands, rivers and T&E Species. These task forces include the DCNR PNDI group meetings and PA Rivers and Advisory Council. Coordination and development also was provided relative to the proposed state listing of 54 fish species.

The Department did not request that the agency assist with training this year.

District visits were conducted within the time constraints imposed by other work priorities.

IV. Outreach and Education:

ACM attendance and support have been exceptional. PFBC representatives have been very proactive in helping other agencies understand the PFBC role and mission. Support for field views has also been excellent. PFBC conducted a study of culvert designs to improve education in the Engineering Districts on designs that will work for fish passage. PFBC has coordinated and conducted stream sampling for projects and has generated quality stream survey reports. PFBC requested and conducted an outstanding educational presentation at the Department's Fall Environmental Manager's Conference.

V. Continuous Quality Improvement (CQI) Initiatives:

N/A